IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9663 of 2007
Date of decision 20. 8 .2007

M/s Computer Land Prop. Capson Computer Forms (P) Ltd.
.. Petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr.Rajiv Agnihotri, Advocate for the petitioner
Ms. Ritu Bahri, DAG Haryana.

M.M.Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing order dated 16.12.2005 (Annexure P.1) passed by the Joint Excise and Taxation Commissioner (Appeals), Faridabad dismissing the appeal filed by the petitioner on account of non compliance of interim order dated 10.2.2005. It is pertinent to mention that vide interim order dated 10.2.2005, the petitioner was asked to furnish bank guarantee for the entire amount of additional demands. On 14.2.2005 (Annexure P.5) it was clarified that the security for the entire amount of additional demand shall be furnished to the satisfaction of the Assessing Authority on or before 7.3.2005. The Appellate Authority also recorded that if the security is not furnished as per the order then the appeals were to be dismissed in default.

The petitioner was not able to furnish the bank guarantee and accordingly the appeals were dismissed on 16.12.2005 in default. It has been averred that the bank guarantee has been furnished on 27.6.2007 for the entire additional demands (Annexure P.8) and the same is to remain valid till 20.6.2008.

Notice of motion was issued and Mrs. Ritu Bahri, learned State counsel had accepted notice.

We have heard learned counsel for the parties at some length and are of the view that once bank guarantee has been furnished although late a liberal view is required to be taken because the appeal of the petitioner against ex-parte assessment order dated 31.10.2003 as rectified on 28.11.2003 has not been decided on merits. Accordingly, we set aside the impugned order dated 16.12.2005 as the bank guarantee stands furnished which is valid upto 20.6.2008 (Annexure P.8). The Appellate Authority shall dispose of the appeal at the earliest but in no case it should exceed a period of six months from today.

The writ petition stands disposed of with the above terms.

(M.M.Kumar)
Judge

(Ajay Kumar Mittal)
Judge

20.8.2007
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